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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,974	05/16/2005	John Richard Joseph French	FISHER ADAMS	2946
7590	09/28/2007			
James C Wray Suite 300 1493 Chain Bridge Road McLean, VA 22101			EXAMINER PARSLEY, DAVID J	
			ART UNIT 3643	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/524,974	Applicant(s) FRENCH, JOHN RICHARD JOSEPH	
	Examiner David J. Parsley	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,8-12,14,17-22,24,25,27 and 31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,8-12,14,17-22,24,25,27 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5-16-05</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Preliminary Amendment

1. Entry of applicant's preliminary amendment dated 2-17-05 into the application file is acknowledged.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains legal phraseology in particular the term "said". Correction is required. See MPEP § 608.01(b).

Claim Objections

3. Claim 1 recites the limitation "barrier" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 24 recites the limitation "said soil medium" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 8-9, 12, 14, 17-22, 24-25, 27 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,058,646 to Bishoff et al.

Referring to claim 1, Bishoff et al. discloses a bait station for distribution of a termiticide to foraging termites, the bait station comprising, a hermetically sealed hollow body – at 10, containing a cellulosic feedstuff – at 16, and a termiticide – see column 5 lines 60-67 and column 6 lines 1-20, the hollow body having a plurality of closed apertures therein – see at 39 in figure 4, at least one of the apertures being exposable to provide, in use, an access port for termites to enter the hollow body – see at 39 in figure 9, the hollow body being adapted for a hermetically sealed mounting on a structure containing termites with the access port forming a pathway

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between an interior cavity of the hollow body and termite pathways in the structure communicating with a termite colony – see figures 1 and 9, the bait station comprising a barrier located between the access port and the termiticide prevents direct access to the termiticide when the at least one aperture is exposed – see at 12,18, the edge of 16.

Referring to claim 2, Bishoff et al. further discloses the barrier comprises a cellulosic layer – at the edge of 16.

Referring to claim 3, Bishoff et al. further discloses the barrier comprises a perforatable membrane – see figures 1-9 where items 12,16,18 are perforatable.

Referring to claim 4, Bishoff et al. further discloses the cellulosic feedstuff comprises a cellulosic matrix of particulate material having a termiticide dispersed therein – see column 5 lines 32-67.

Referring to claim 8, Bishoff et al. further discloses the termiticide is a phenol urea – see column 6 lines 1-20.

Referring to claim 9, Bishoff et al. further discloses a termite attractant composition is incorporated in the cellulosic matrix – see column 5 lines 32-59.

Referring to claim 12, Bishoff et al. further discloses the hollow body comprises a viewing port – see column 9 lines 14-27.

Referring to claim 14, Bishoff et al. further discloses the bait station is adapted for coupling to an adjacent bait station via alignable exposable apertures in respective hollow bodies – see at 39 in figure 9.

Referring to claim 17, Bishoff et al. further discloses the bait station is adapted for mounting on a structure containing termites by a hollow conduit – formed at 12,18,39, extending

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via the access port between and interior region of the structure and the interior cavity of the bait station – see figure 9.

Referring to claim 18, Bishoff et al. further discloses the structure is a detector station – see figures 9-11.

Referring to claims 19 and 31, Bishoff et al. further discloses a system for the detection and elimination of termites in a medium, the system comprising, a detector station – at 10, having an apertured insertable portion for insertion into the medium – see at 10,12 in figures 9-11, and a normally exposed viewing port adjacent one end of the detector station – see figures 9-11 and column 9 lines 14-22, the viewing port in use permitting an indication of the presence of termites feeding on a cellulosic feedstuff – at 16, in the detector station – see figures 9-11 and column 9 lines 14-22, a bait station – at 10 according to claim 1 – see claim 1 above, the detector station being adapted for hermetic coupling to the bait station to provide a pathway – at 12,18,39, from a termite colony via the detector station to the bait station – see figures 9-11.

Referring to claim 20, Bishoff et al. further discloses the detector station – at 10, comprises a hollow body – see figures 9-11, having a plurality of apertures – at 34,39, therein – see figures 9-11, the hollow body of the detector station being insertable into a soil medium to permit access to the feedstuff by subterranean termites – see figures 9-11 where the body – at 10,12, is of sufficient size to be capable of being inserted into a soil medium.

Referring to claim 21, Bishoff et al. further discloses the cellulosic feedstuff in the detector station comprises a cellulosic matrix of particulate material – see at 16 in figures 9-11.

Referring to claim 22, Bishoff et al. further discloses the cellulosic matrix in the detector station has a termite attractant composition incorporated therein – see column 5 lines 33-59.

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Referring to claim 24, Bishoff et al. further discloses the detector station is adapted to be coupled to an adjacent detector station – at 10 – see figures 9-11, in the medium – see figures 9-11, the detector station and the adjacent detector station begin coupled by a hollow plastics conduit – at 12,18,39, having a corrugated cellulosic liner – at the edge of 16 therein – see figures 9-11.

Referring to claim 25, Bishoff et al. further discloses the viewing port is removable to permit coupling of the bait station to form a pathway between an interior cavity of the detector and an interior cavity of the bait station – see figure 11.

Referring to claim 27, Bishoff et al. further discloses the detector is adapted for insertion into a timber medium – house as seen in figures 9-11, by a hollow conduit – at 12,18,39, insertable in an aperture formed in the timber medium – see figures 9-11.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bishoff et al. as applied to claims 1 or 4 above.

Referring to claim 10, Bishoff et al. further discloses the attractant composition is incorporated in a barrier material – at 54, disposed between the cellulosic matrix and an inner

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wall of the hollow body – see figures 1-9. Bishoff et al. does not disclose the barrier is corrugated cellulosic material. Bishoff et al. does disclose that the barrier – at 54 is made of any moisture retaining material and therefore it would have been obvious to one of ordinary skill in the art to take the device of Bishoff et al. and add the cellulosic material of the barrier, so as to allow for the device to be of sufficient structure to contain a bait.

Referring to claim 11, Bishoff et al. does not disclose the attractant composition is allantoin, ellagic acid, hydroxycoumarin or urea. However, it would have been obvious to one of ordinary skill in the art to take the device of Bishoff et al. and add the attractant being allantoin, ellagic acid, hydroxycoumarin or urea, so as to allow for the device to be attractive to termites for effective use.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to termite traps in general:

U.S. Pat. No. 5,832,658 to Randon – shows termite detection device

U.S. Pat. No. 5,937,571 to Megargle et al. – shows termite eradication device

U.S. Pat. No. 6,003,266 to Woodruff – shows termite eradication device

U.S. Pat. No. 6,016,625 to Bishoff et al. – shows termite eradication device

U.S. Pat. No. 6,219,961 to Ballard et al. – shows termite eradication device

U.S. Pat. No. 6,313,748 to Lake – shows termite detection device

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U.S. Pat. No. 6,370,811 to Masterson – shows termite detection device

U.S. Pat. No. 6,370,812 to Burns et al. – shows termite eradication device

U.S. Pat. No. 6,543,182 to Snell et al. – shows termite eradication device

U.S. Pat. No. 7,169,403 to Su – shows termite eradication device

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


DAVID PARSLEY
PRIMARY EXAMINER